

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JESSE HELTON,

No. C-10-04927 SBA (JCS)

Plaintiff(s),

v.

**NOTICE OF REFERENCE; ORDER TO
MEET AND CONFER AND FILE JOINT
LETTER**

FACTOR 5, INC.,

Defendant(s).

TO ALL PARTIES AND COUNSEL OF RECORD:

The above matter has been referred to Magistrate Judge Joseph C. Spero for resolution of Plaintiffs' Motion for Discovery Sanctions [Docket No. 48]], and all future discovery matters.

It appears that counsel have not made adequate efforts resolve this matter without the need for Court intervention. IT IS HEREBY ORDERED that lead trial counsel for both parties shall meet and confer **in person** in Courtroom G **no later than December 16, 2011**. Counsel shall contact the undersigned's Courtroom Deputy, Karen Hom, at (415) 522-2035 to arrange a date and time for the meet-and-confer session.

In the event that counsel are unable to resolve the matters at issue in the Motion, lead trial counsel shall provide a detailed Joint Letter to the Court within five (5) calendar days of their meet-and-confer session. This Joint Letter, not to exceed ten (10) pages without leave of Court, shall include a description of every issue in dispute and, with respect to each such issue, a detailed summary of each party's final substantive position and its final proposed compromise on each issue.

LAW AND MOTION HEARING PROCEDURES

Civil law and motion is heard on Friday mornings, at 9:30 a.m., in Courtroom G, 15th Floor, United States District Court, 450 Golden Gate Avenue, San Francisco, California 94102.

1 In the event a **future discovery dispute** arises, IT IS HEREBY ORDERED that before filing
2 any discovery motion before this Court, the parties must comply with the following:

- 3 1. Lead trial counsel for both parties must meet and confer *in person* regarding the
4 matter(s) at issue. This meeting shall occur after other efforts to resolve the dispute,
5 such as telephone, e-mail, teleconference, or correspondence, have been unsuccessful.
6 Once those efforts have proved unsuccessful, any party may demand a meeting of
7 lead trial counsel to resolve a discovery matter. Such a meeting shall occur within ten
8 (10) calendar days of the demand. The locations of the meetings shall alternate. The
9 first meeting shall be at a location selected by counsel for Plaintiff(s). If there are any
10 future disputes, the next such meeting shall be held at a location to be determined by
11 counsel for Defendant(s), etc.
- 12 2. Within five (5) calendar days of the in-person meeting between lead trial counsel
13 referred to above, the parties shall jointly file a detailed letter with the Court, not to
14 exceed ten (10) pages without leave of Court, which will include the matters that
15 remain in dispute, a detailed substantive description of each side's position on each
16 such issue, and a description of each side's proposed compromise on each such issue.
- 17 3. After the Court has received the joint letter, the Court will determine what future
18 proceedings, if any, are necessary.

19 In the event that the parties continue to be unable to resolve the matters regarding the timing
20 and scope of discovery, the Court will consider what future actions are necessary. These actions
21 may include the following: (1) sanctions against a party failing to cooperate in the discovery process
22 and meet and confer in good faith, as required by this Order, the Federal Rules of Civil Procedure,
23 and the Local Rules of this Court; and/or (2) requiring the Chief Executive Officers of each party to
24 attend the in-person, meet-and-confer sessions described above. The Court is not entering either of
25 these matters as an Order of the Court at this time, and fully expects counsel to meet their
26 obligations under this Order and under the Local Rules.

27 A party or counsel has a continuing duty to supplement the initial disclosure when required
28 under Fed. R. Civ. P. 26(e)(1).

1 Law and motion matters may be submitted without argument upon stipulation of the parties
2 and notification of the Court no later than 4:30 p.m. the day before the hearing. Pursuant to Civil L.
3 R. 7-7(e), filed motions may be withdrawn without leave of the Court, within seven (7) days of the
4 date for service of the opposition. Thereafter, leave of the Court must be sought.

5 All filings of documents relating to motions referred to the undersigned shall list the civil
6 case number and the district court judge's initials followed by the designation "(JCS)".

7 **ELECTRONIC FILING AND COURTESY COPIES**

8 Please refer to Civil L. R. 5-4 and General Order No. 45 for the Northern District of
9 California for information relating to electronic filing procedures and requirements. All documents
10 shall be filed in compliance with the Civil Local Rules. Documents not filed in compliance with
11 those rules will not be considered by the Court.

12 BEFORE NOON ON THE NEXT BUSINESS DAY FOLLOWING THE ELECTRONIC
13 FILING, THE PARTIES ARE REQUIRED TO LODGE DIRECTLY WITH CHAMBERS ONE
14 CONFORMED, **PAPER** COPY OF EACH DOCUMENT, WHICH IS TO BE DESIGNATED
15 **"JCS'S CHAMBERS' COPY."**

16 The failure of counsel or a party to abide by this Order may result in sanctions pursuant to
17 Fed. R. Civ. P. 16(f).

18 IT IS SO ORDERED.

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20 Dated: December 1, 2011

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JOSEPH C. SPERO
United States Magistrate Judge